DAN SIEGEL, SBN 056400
ANNE BUTTERFIELD WEILLS, SBN 139845
EMILYROSE JOHNS, SBN 294319
SIEGEL, YEE, BRUNNER & MEHTA
475 14th Street, Suite 500
Oakland, California 94612
Telephone: (510) 839-1200
Facsimile: (510) 444-6698
Emails: danmsiegel@gmail.com; abweills@gmail.com;
emilyrose@siegelyee.com

Attorneys for Plaintiffs
ARMIDA RUELAS, DE'ANDRE EUGENE COX,
BERT DAVIS, KATRISH JONES,
JOSEPH MEBRAHTU, DAHRYL REYNOLDS,
MONICA MASON, and LUIS NUNEZ-ROMERO

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARMIDA RUELAS; DE'ANDRE EUGENE COX; BERT DAVIS; KATRISH JONES; JOSEPH MEBRAHTU; DAHRYL REYNOLDS; MONICA MASON; LUIS NUNEZ-ROMERO; and all others similarly situated, Plaintiffs, vs. COUNTY OF ALAMEDA; GREGORY J. AHERN, SHERIFF; ARAMARK CORRECTIONAL SERVICES, LLC; and DOES 1 through 10, Defendants.	Case No. 4:19-cv-07637-JST **PLAINTIFFS' OPPOSITION TO DEFENDANTS COUNTY OF ALAMEDA'S AND SHERIFF GREGORY J. AHERN'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT** **Hearing:** February 5, 2019 **Time:** 2 p.m. **Courtroom:** Oakland Courthouse, Courtroom 6 – 2nd Floor 1301 Clay Street, Oakland, CA 94612 **Hon. Jon S. Tigar**

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INTRODUCTION

Plaintiffs Armida Ruelas, De'Andre Eugene Cox, Bert Davis, Katrish Jones, Joseph Mebrathu, Dahryl Reynolds, Monica Mason, and Luis Nunez-Romero are or were at one time incarcerated at Santa Rita Jail, the sole jail run by the Sheriff's Department of Alameda County. They seek to represent a class of prisoners at Santa Rita Jail who are forced to work without pay.

The jail houses pre-trial detainees in state and federal cases, prisoners sentenced to county jail time or state prison time, and detainees facing immigration proceedings. It has an industrial kitchen designed to mass-produce meals for consumption by prisoners in Santa Rita Jail and other county jails in California. Defendants Alameda County, Sheriff Gregory J. Ahern, and Aramark Correctional Services, Inc. ("Aramark") employ prisoners in Santa Rita Jail to perform nearly every aspect of food preparation and sanitation in the industrial kitchen. Defendant Aramark is a private corporation that benefits financially from the work of those housed in Santa Rita Jail. Defendants Alameda County and Sheriff Ahern make plaintiffs and the putative class's labor possible by selecting prisoners to work, setting their schedules, and imposing discipline on workers at their discretion. This partnership between the County and a private company is permitted by a state statutory scheme established by referendum in 1990, which allows prisoners to be employed by private companies while incarcerated, and which requires prisoners to be paid comparable wages with deductions for room, board, taxes, and restitution being permitted at up to 80 percent of their earnings.

Although plaintiffs and the putative class are employed by defendants, they are not paid any wages for their work. Further, they are coerced to work, forced to work, and threatened with sanctions if they attempt not to work. Plaintiffs filed their lawsuit seeking wages that they are owed for work they performed and seeking an end to their exploited labor by coercion or threat of sanction.

Defendants County of Alameda and Sheriff Ahern filed their motion to dismiss plaintiffs' complaint on December 13, 2019. (ECF No 13.) Defendants argue that:

1) Plaintiffs did not plead exhaustion of administrative remedies pursuant to the Prison Litigation Reform Act, 42 U.S.C. 1997e;

2) Plaintiffs are not entitled to wages from the County and the Sheriff;

3) Plaintiffs Joseph Mebrathu, Dahryl Reynolds, Monica Mason, and Luis Nunez-Romero did not exhaust administrative remedies under the California Government Claims Act;

4) Plaintiffs cannot pursue their Bane Act claims because they did not exhaust administrative remedies under the California Government Claims Act.

In their opposition, plaintiffs will show:

1) Failure to exhaust administrative remedies under the Prison Litigation Reform Act, 42 U.S.C. 1997e, is an affirmative defense, and plaintiffs need not plead exhaustion to proceed;

2) The County and the Sheriff are liable for wages owed to plaintiffs where they take affirmative steps making the labor of prisoners available to a for-profit company;

3) Plaintiffs' wage claims are not subject to administrative exhaustion;

4) Plaintiffs Joseph Mebrathu, Dahryl Reynolds, Monica Mason, and Luis Nunez-Romero sufficiently exhausted administrative remedies under the Government Claims Act for claims subject to the requirement; and

5) Plaintiffs' Government Claims Act claim sufficiently addresses the Bane Act, meeting exhaustion requirements.

ARGUMENT

At the pleading stage, plaintiffs need only allege in their complaint "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads *factual content* that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (emphasis added). The Court must take plaintiffs' allegations as true and construe the pleadings in the light most favorable to

them. *Hospital Bldg. Co. v. Rex Hospital Trustees*, 425 U.S. 738, 740 (1976); *Jenkins v. McKeithen,* 395 U.S. 411, 421 (1969). The court must also draw all reasonable inferences in plaintiffs' favor. *Ileto v. Glock Inc.*, 349 F.3d 1191, 1200 (9th Cir. 2003).

Plaintiffs' complaint contains sufficient factual content to support all claims for relief asserted.

I. Plaintiffs Are Not Required to Plead Exhaustion Under 42 U.S.C. 1997e.

It has long been established that a plaintiff need not plead exhaustion of administrative remedies pursuant to the Prison Litigation Reform Act ("PLRA"), 42 U.S.C. 1997e. *Jones v. Bock*, 549 U.S. 199, 216 (2007). "Failure to exhaust is an affirmative defense under the PLRA, and . . . inmates are not required to specially plead or demonstrate exhaustion in their complaints." *Id.* [1] In the Ninth Circuit, a defendant may not raise its exhaustion defense in a motion to dismiss, as defendants attempt here. *Albino v. Baca*, 747 F.3d 1162, 1168 (9th Cir. 2014) ("[A]n unenumerated motion under Rule 12(b) is not the appropriate procedural device for pretrial determination of whether administrative remedies have been exhausted under the PLRA.") Rather, "to the extent evidence in the record permits, the appropriate device is a motion for summary judgment under Rule 56." *Id.* Plaintiffs' election not to discuss exhaustion of administrative remedies in their complaint is permissible and does not represent any defect in their complaint. Defendants' argument fails.

II. County Defendants are Liable for Aramark's Failure to Pay Wages.

Plaintiffs allege that defendants County of Alameda and Sheriff Ahern are liable for allowing Aramark to utilize prison labor without compensation. Defendants argue

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[1] Defendants may not raise this affirmative defense against plaintiffs who were not incarcerated when the complaint was filed, as the Prison Litigation Reform Act and its attendant requirements, such as exhaustion of administrative remedies, apply only to persons who are prisoners when the complaint is filed. *Page v. Torrey*, 201 F.3d 1136, 1140 (9th Cir. 2000) ("[O]nly individuals who, at the time they seek to file their civil actions, are detained as a result of being accused of, convicted of, or sentenced for criminal offenses are 'prisoners' within the definition of 42 U.S.C. § 1997e and 28 U.S.C. § 1915.")

that plaintiffs may not plead these causes of action against defendants since they are municipal entities and only the private entity is liable for wages under the statutory scheme created by Proposition 139. (Defendants County of Alameda's and Sheriff Gergory J. Ahern's Motion to Dismiss Plaintiffs' Complaint, ECF No. 13 ("MTD") at 6:9-26.)[2] Defendants provide no legal support for their assertion, and their position is not supported by the statutory framework resulting from Proposition 139 or California wage laws.

Contrary to defendants' assertion, Proposition 139 and its implementing legislation, California Penal Code section 2717 *et seq*. do not prescribe which entity must pay prisoner-employees. Defendants argue that California Penal Code section 2717.8 requires the joint venture employer to pay prisoner-employees. (MTD at 6:9-15.) Section 2717.8 provides no such direction.

> The compensation of prisoners engaged in programs pursuant to contract between the Department of Corrections and joint venture employers for the purpose of conducting programs which use inmate labor shall be comparable to wages paid by the joint venture employer to non-inmate employees performing similar work for that employer. If the joint venture employer does not employ such non-inmate employees in similar work, compensation shall be comparable to wages paid for work of a similar nature in the locality in which the work is to be performed. Such wages shall be subject to deductions, as determined by the Director of Corrections, which shall not, in the aggregate, exceed 80 percent of gross wages and shall be limited to the following:
> (1) Federal, state, and local taxes.
> (2) Reasonable charges for room and board, which shall be remitted to the Director of Corrections.
> (3) Any lawful restitution fine or contributions to any fund established by law to compensate the victims of crime of not more than 20 percent, but not less than 5 percent, of gross wages, which shall be remitted to the Director of Corrections for disbursement.
> (4) Allocations for support of family pursuant to state statute, court order, or agreement by the prisoner.

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[2] Defendants make this argument against plaintiffs fifth through ninth causes of action. However, plaintiffs' ninth cause of action, alleging a violation of California Business and Professions Code section 17200 *et seq*. is presented only against Aramark Correctional Services, Inc.

Cal. Penal Code § 2717.8. The statutory provision only requires that prisoners be paid for their work at a wage comparable to the wages paid to the joint venture employers' employees who perform comparable work. When faced with a joint venture employer's failure to pay wages to state-housed, prison-employees under similar circumstances to the case here, the California Court of Appeal, Fourth District instructed that "[c]ontrary to the State's view, it cannot sit idly by while CMT Blues violates Proposition 139 and the express terms of the joint venture agreement." *Vasquez v. State of California*, 105 Cal. App. 4th 849, 856 (2003). In *Vasquez*, a California taxpayer lawsuit, the court did not have occasion to consider the question before the court here: whether the government entity was liable as a joint employer for the failure to pay wages. However, where courts have had such occasion, they have concluded that municipalities can be joint employers responsible for the failure to pay wages. *See, e.g.*, *Cty. of Ventura v. Pub. Employment Relations Bd.*, 254 Cal. Rptr. 3d 902, 909 (Ct. App. 2019) (County liable as joint employer where factual determination shows that County exercised certain control over workers); *Sheppard v. N. Orange Cty. Reg'l Occupational Program*, 191 Cal. App. 4th 289, 300-01 (2010) (California industrial wage orders requiring payment of minimum wage may apply when stated to states and political subdivisions).

California's Industrial Wage Orders guide the definition of an employer and the meaning of employ. *Martinez v. Combs*, 49 Cal. 4th 35, 69 (2010), *as modified* June 9, 2010. The work performed by plaintiffs and the putative class is covered by Industrial Wage Order 5 "Public Housekeeping Industry." Cal. Code Regs. tit. 8, § 11050. *See also Novoa v. GEO Grp., Inc.*, No. EDCV172514JGBSHKX, 2018 WL 3343494, at *9 (C.D. Cal. June 21, 2018), *Owino v. CoreCivic, Inc.*, No. 17-CV-1112 JLS (NLS), 2018 WL 2193644, at *26 (S.D. Cal. May 14, 2018), *reconsideration denied*, No. 17-CV-1112 JLS (NLS), 2019 WL 1367815 (S.D. Cal. Mar. 26, 2019). Industrial Wage Order 5 defines employ as "to engage, suffer, or permit to work." Cal. Code Regs. tit. 8, § 11050, subd. 2(E). The County defendants employed those it engaged, suffered or permitted to work when it allowed prisoners to work for Aramark, on the premises the County runs and

with the assistance of Sheriff's deputies. *Martinez*, 49 Cal. 4th at 69. ("A proprietor who knows that persons are working in his or her business without having been formally hired, or while being paid less than the minimum wage, clearly suffers or permits that work by failing to prevent it, while having the power to do so.") *See also Novoa*, No. EDCV172514JGBSHKX, 2018 WL 3343494, at *9 ("As *Martinez* clarifies, the definition of 'employ' encompasses liability on a business that knows prohibited labor is occurring and fails to prevent it, despite the absence of a common law employment relationship.")

Plaintiffs allege facts against the County defendants that permit the conclusion that they and Aramark operated as plaintiffs' joint employers. Plaintiffs describe County employees exercising control over their schedules and supervising their work. (Complaint at 23, 24, 26-27.) The County defendants are not exempted from the requirements of the Industrial Wage Orders where they "engage, suffer, or permit to work" persons in their custody. *Sheppard*, 191 Cal. App. at 300. Plaintiffs allege sufficient facts to proceed against the County defendants as joint employers with Aramark and hold the County defendants liable for the failure to pay wages.

III. Plaintiffs Joseph Mebrahtu, Dahryl Reynolds, Monica Mason, and Luis Nunez-Romero' May Serve as Class Representatives on their Wage Claims.

A. Claims for Wages are Not Subject to Administrative Exhaustion Under the Government Claims Act.

Defendants argue that plaintiffs are required to file claims under the Government Claims Act for causes of action five through nine. (MTD at 7:3-11:12.)[3] Causes of action five through eight are claims for failure to pay wages, failure to pay minimum wages, failure to pay overtime premiums, and failure to pay men and women equally. (Complaint at ¶¶ 84-99.) Claims regarding wages are exempted from the requirement to file a claim under the Government Claims Act. Cal. Gov't Code § 905(c). *See also Longshore v. Cty. of Ventura*, 25 Cal. 3d 14, 22 (1979) ("Section 905, subdivision (c), specifically excludes from application of the statute those claims 'by public employees

[3] Plaintiffs address only claims five through eight as plaintiffs' ninth claim for relief is alleged only against Aramark Correctional Services, Inc.

for fees, salaries, wages, mileage or other expenses or allowances.'") Plaintiffs are exempt from the California Government Claims Act exhaustion requirement for their wage claims.

B. Where Plaintiffs, as Here, Present a Claim for Class Relief, the Claims Requirement is Satisfied by One Claimant Filing for the Class Itself.

Even were plaintiffs required to file a claim for wages under the California Government Claims Act, plaintiffs have complied with the requirements by filing a claim on behalf of a class. Plaintiffs Armida Ruelas, De'Andre Cox, Bert Davis, Katrish Jones, Joseph Mebrahtu, and Dahryl Reynolds presented a claim on August 8, 2019, that was rejected on August 19, 2019. (Complaint at ¶ 65.) Plaintiffs Monica Mason and Luis Nunez-Romero presented a claim on November 8, 2019. (Complaint at ¶ 66.) As to the wage claims, defendants find no defect in presentation of the claim filed by plaintiffs Armida Ruelas, De'Andre Cox, Bert Davis, and Katrish Jones. Defendants argue that plaintiff Joseph Mebrahtu did not timely present his claim, (MTD at 11:13-13:10), plaintiff Dahryl Reynolds did not comply with the requirements of the Government Claims Act to state a date for his injuries, (MTD at 12:11-25), and plaintiffs Monica Mason's and Luis Nunez-Romero's claim is barred as a matter of law, (MTD 12:26-13:12).

Plaintiffs presented a class claim. This is evidenced by plaintiffs' caption reading the names of claimants "and all others similarly situated," and by their introduction that "[t]hey bring this claim on their own behalf and on behalf of all others similarly situated." (Exhibit 1 to Defendants' Request for Judicial Notice, ECF No. 13-1 ("RJN"), at 2:7-8.) Where plaintiffs seek to represent a class, a claim that identifies a representative plaintiff and enough information "to identify and make ascertainable the class itself" is sufficient. *City of San Jose v. Superior Court*, 12 Cal. 3d 447, 457 (1974). *See also Eaton v. Ventura Port Dist.*, 45 Cal. App. 3d 862, 868 (Ct. App. 1975) ("Thus, at a minimum, in order for a class claim to be considered to substantially comply with Government Code section 910, it must contain sufficient information to enable the

governmental entity, either from its own records or from the claim itself, to reasonably determine the circumstances which it is claimed give rise to liability and the possible outer limits of that liability." (internal citations omitted).)

Plaintiffs' August 8, 2019, claim makes clear that the class consists of "all other incarcerated employees of Aramark who work in the Santa Rita Jail kitchen [and who] are similarly not paid for their labor and work in the same conditions as those complained of by claimants." (RJN, Ex 1, 4:5-7.) The conditions, among other allegations, include "punishment and reprisals, including placement in solitary confinement, if they refuse to work." (RJN, Ex. 1, 3:2-3.)

The defects that defendants argue occurred do not prevent those Joseph Mebrahtu, Dahryl Reynolds, Monica Mason, Luis Nunez-Romero being named plaintiffs in this action. The word "claimant" in a section 910 class claim "refer[s] to 'the class itself,' not to an individual class member." *Ardon v. City of Los Angeles*, 52 Cal. 4th 241, 248 (2011) (citing *City of San Jose*, 12 Cal. 3d at 457.) Therefore, it is sufficient that class representatives Armida Ruelas, De'Andre Cox, Bert Davis, and Katrish Jones all presented claims to which defendants raise no objection regarding compliance. As their claim is presented for the class itself, any purported defect in the individual allegations of other class members does not affect the class claim as long as *one representative* supplies the information required by the statute. *City of San Jose*, 12 Cal. 3d at 457. Plaintiffs' claims provided the County defendants with sufficient information to determine from its own records the circumstances that give rise to its liability. *See also Eaton*, 45 Cal. App. 3d at 868. Faced with that information, the County took only 11 days to evaluate and reject plaintiffs' claim. (Complaint at ¶ 65.)

IV. Plaintiffs Joseph Mebrahtu Substantially Complied with the Claims Requirement.

If the Court finds a defect in Joseph Mebrahtu's claim that he worked for 11 months between 2014 and 2018, the Court should evaluate his claim for substantial compliance. "[T]he doctrine of substantial compliance may validate the claim 'if it substantially complies with all of the statutory requirements . . . even though it is

technically deficient in one or more particulars.'" *Connelly v. Cty. of Fresno*, 146 Cal. App. 4th 29, 38 (2006) (*quoting Santee v. Santa Clara County Office of Education*, 220 Cal.App.3d 702, 713 (1990). "The test for substantial compliance is whether the face of the filed claim discloses sufficient information to enable the public entity to make an adequate investigation of the claim's merits and settle it without the expense of litigation." *Connelly*, 146 Cal. App. 4th at 38 (2006).

Here, as defendants agree, plaintiff Joseph Mebrahtu had one year to file his claim against the County for failure to pay him wages. (MTD at 11:26-27.) Defendants err in arguing that plaintiffs are required to file a claim at the initiation of the county defendants' tortious conduct. (MTD at 11:26-28.) Tortious conduct that is continuous in nature may be considered a single occurrence such that a plaintiff has six months or one year from the *conclusion* of the conduct to file a claim. *Nat. Soda Prod. Co. v. City of Los Angeles*, 109 Cal. App. 2d 440, 445 (1952) (noting that the "'principal purpose of the requirement that claims be filed is to provide the city with full information concerning rights asserted against it, so that it may settle those of merit without litigation. . . . That purpose is best served if the entire sequence of events giving rise to the injury is regarded as the occurrence from which the damage arose, for damages can be assessed accurately only when the sequence is completed and the total injury taken into account.'" (quoting *Nat. Soda Prod. Co. v. City of Los Angeles*, 23 Cal.2d 193 (1943)).

Plaintiff Joseph Mebrahtu filed a claim stating that he had worked as recently as 2018. (RJN, Ex.1, 3:19-22). The claim explains that prisoners work according to a current contract between the County and Aramark Correctional Services, Inc. and that plaintiffs seek to represent all those similarly situated. (RJN, Ex. 1, 2:15-19; 4:5-7.) The Court should view Plaintiff Joseph Mebrahtu's claim "in its entirety" and determine "whether the claim is susceptible to an interpretation that reasonably enables the public entity to make an adequate investigation and settle the claim." *Connelly*, 146 Cal. App. 4th at 40. As Plaintiff Joseph Mebrahtu's claim, in its entirety, provides the County with

the information it needed to adequately investigate the claim, the Court should find that Joseph Mebrahtu substantially complied with the claims requirement.

V. Defendants Waived their Defense of an Insufficient Claim As to Plaintiff Dahryl Reynolds.

"[I]f a claimant is not warned about a defect or omission in the claim as presented in accordance with section 910.8, the public entity waives any defense as to the sufficiency of the claim." *Perez v. Golden Empire Transit Dist*., 209 Cal. App. 4th 1228, 1235 (2012). Here, defendants claim plaintiff Dahryl Reynolds did not comply with the claims statute by not including the dates during which he worked in the jail kitchen. (MTD at 12:4-25.) However, the statute is clear that a public entity's failure to identify the defect and permit the claimant to cure it, the public entity waives the defense of insufficiency. Cal. Gov't Code § 911. *See also Perez*, 209 Cal. App. 4th at 1235. Plaintiffs received a letter denying their claims. (Exhibit 1 to Declaration of EmilyRose Johns in Support of Plaintiffs' Request for Judicial Notice.) The letter made no indication that the public agency found a defect as to any claimant's presentation of their claims. (Id.) Therefore, defendants waived this defense.

VI. Plaintiffs Monica Mason and Luis Nunez-Romero Are not Barred from Proceeding on their Claims Because They Substantially Complied with the Claims Requirement.

If the Court concludes that plaintiffs were required to file a claim for their unpaid wages and that the class claim filed originally on August 9, 2019, does not cover other class representatives, the Court must still permit Monica Mason and Luis Nunez-Romero to proceed on their wage claims despite filing their complaint prior to the County's rejection of their claim. Plaintiffs Monica Mason and Luis Nunez-Romero, by presenting a timely claim, have not committed a fatal error by filing their complaint prior to the claim's rejection. Instead, in such cases, courts have refused to dismiss plaintiffs' complaint because by submitting the timely claim, "plaintiffs had substantially complied with the claim presentation requirement." *State of California v. Superior Court*, 32 Cal. 4th 1234, 1244 (2004) (citing cases where courts have so held). Rather, "by filing the claim and prematurely filing the complaint, [plaintiffs] had satisfied the

purpose behind the requirement—to give the entity the opportunity to investigate and settle the claim before suit was brought." *Id.* At the filing of the complaint, plaintiffs Monica Mason and Luis Nunez-Romero has presented a claim to the County and pled as much in their complaint. (Complaint at ¶ 66.) Plaintiffs Monica Mason and Luis Nunez-Romero substantially complied with the requirement and must be permitted to proceed on their wage and Bane Act causes of action.

VII. Plaintiffs State a Claim for a Violation of the Bane Act.

A. Plaintiffs Met the Requirement to File a Claim.

Plaintiffs filed a claim under the Government Claims Act that alleged a violation of the Bane Act. (RJN at 3:1-3; 4:12-14.) Defendants do not argue that plaintiffs' claim was insufficient as to its presentation. (MTD at 13:13-14:18) Instead, defendants argue simply that a claim was required to be presented. (Id.) To the extent their argument is construed as one alleging that plaintiffs did not file a claim for their Bane Act claims, defendants are incorrect. Plaintiffs allege that punishments and reprisals such as placement in solitary confinement—punishments and reprisals only County defendants could impose—were feared results if they refused to work. (RJN at 3:1-3). Plaintiffs alleged a right to recovery under all applicable laws. (RJN at 4:12-14.) Their claim substantially complied with the claims requirement for their allegations under the Bane Act. *Connelly*, 146 Cal. App. 4th at 40.

B. Plaintiffs Plead Sufficient Facts to Support their Bane Act Claim.

Defendants argue that plaintiffs' complaint fails to state a claim for relief because plaintiffs do not allege a right to declaratory or equitable relief in their tenth cause of action regarding the County's violation of the Bane Act. (MTD at 15:2-4.) Defendants cite no authority showing that such an allegation is a requirement to advance plaintiffs' claims. Instead, defendants conclude that plaintiffs' omission coupled with the allegation that they have been injured financially means the claim is one for money damages, and therefore a claim must have been presented under the Government Claims Act. (MTD at 15:11-15.) Plaintiffs know of no requirement to include a prayer for

certain relief in their pleading regarding a cause of action for a violation of the Bane Act. Certainly, if this were required, it could be cured by an amendment. *Yagman v. Garcetti*, 852 F.3d 859, 863 (9th Cir. 2017).

However, plaintiffs' Bane Act cause of action in their complaint pleads the required elements: that the County defendants knowingly interfered with a right held by plaintiffs through threat, coercion or intimidation. (Complaint at ¶ 108.) *See Rodriguez v. Cty. of Los Angeles*, 891 F.3d 776, 802 (9th Cir. 2018) ("[T]he Bane Act does not require the threat, intimidation or coercion element of the claim to be transactionally independent from the constitutional violation alleged, but rather a showing of the defendant's specific intent to violate the plaintiff's constitutional rights." (internal citations and quotations omitted)). Although defendants do not seem to challenge the sufficiency of plaintiffs' complaint on these grounds, plaintiffs similarly plead sufficient facts to advance their Bane Act claim by alleging that they are forced by Sheriff's Deputies to work without pay through threats of lengthier jail sentences or solitary confinement. (Complaint at ¶¶ 26-27.)

VIII. Should the Court Determine that Plaintiffs do not Plead Sufficient Facts to State a Claim for Relief, Plaintiffs Should be Granted Leave to Amend their Complaint.

When a court dismisses a complaint for a deficiency in the pleading that can be cured, it should do so without prejudice. *Yagman*, 852 F.3d at 863. In this matter, plaintiffs can plead additional facts to support their claims or perfect their causes of action, and they request the opportunity to amend their complaint in the event that the Court determines that they do not plead sufficient facts to state claims for relief.

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CONCLUSION

For the foregoing reasons, the Court should deny defendants' Motion to Dismiss.

Dated: December 27, 2019

SIEGEL, YEE, BRUNNER & MEHTA

By */s/EmilyRose Johns*
EmilyRose Johns

Attorneys for Plaintiffs
ARMIDA RUELAS, DE'ANDRE EUGENE COX, BERT DAVIS, KATRISH JONES, JOSEPH MEBRAHTU, DAHRYL REYNOLDS, MONICA MASON and LUIS NUNEZ-ROMERO